

EXHIBIT 12

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

IN RE: HIGH-TECH EMPLOYEE)
ANTITRUST LITIGATION) No. 11-CV-2509-LHK

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VIDEOTAPED DEPOSITION OF EDWARD LEAMER
San Francisco, California
Friday, October 26, 2012
Volume I

Reported by:
ASHLEY SOEVYN
CSR No. 12019
Job No. 1545691

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1 common proof, so I'm not sure. 08:23:23

2 BY MR. PICKETT: 08:23:26

3 Q. It refers to a reliable class-wide or 08:23:26

4 formulaic method. Do you see that? 08:23:29

5 A. I do see that. 08:23:30

6 Q. And do you not think that's class -- that's 08:23:31

7 a proof common to the class? 08:23:33

8 A. Well, I am not a lawyer, I don't know 08:23:35

9 whether I want to put words into your mouth or into 08:23:38

10 an attorney's mouth, but these are the words that I 08:23:42

11 took to be my task and I followed that out. 08:23:43

12 Q. Your conduct regressions go to step one, 08:23:45

13 correct? 08:23:48

14 MR. GLACKIN: Objection, vague. 08:23:48

15 THE WITNESS: No. 08:23:49

16 BY MR. PICKETT: 08:23:54

17 Q. No? 08:23:54

18 A. They contribute to the argument, one of the 08:23:55

19 things that contributes, but the conduct 08:23:57

20 regressions -- if you're talking about the 08:23:59

21 regressions that use the conduct variable, that has 08:24:00

22 to do with the formulaic method of estimating the 08:24:03

23 amount of suppression of compensation, which was 08:24:06

24 task b. 08:24:09

25 Q. When you say, "all or most members of each 08:24:10

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1 class" in the end of 10a, do you see that there? 08:24:12

2 A. I do. 08:24:16

3 Q. What do you mean by "most"? 08:24:18

4 A. You want me to give a percentage? 08:24:26

5 Q. Well, what did you have in mind when you 08:24:28

6 were answering that question? 08:24:34

7 A. Well, to argue that all -- absolutely all 08:24:35

8 members of the class are going to be affected 08:24:38

9 because of theoretical frameworks are identified and 08:24:41

10 because of data analysis I identified, that seems, 08:24:45

11 to me, to be a difficult argument. 08:24:49

12 But to make the argument most members of 08:24:51

13 the class would be affected, that would say that 08:24:53

14 the -- that the conceptual framework certainly speak 08:24:56

15 to that point. 08:25:00

16 Q. Is most 51 percent? 08:25:02

17 A. No, if you want a number, I would say 95 08:25:04

18 percent. 08:25:06

19 Q. 95 percent. What do you base that on? 08:25:07

20 A. It's an interpretation of the English 08:25:10

21 language. It's kind of like in a legal setting what 08:25:12

22 is proof? Proof beyond a reasonable doubt, what 08:25:16

23 percentage is it? It's a vague concept. 08:25:22

24 So please understand that I regard the word 08:25:23

25 "most" to be a vague word that is not actually 08:25:25

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1 translatable into a specific numerical fraction. 08:25:27

2 And I felt compelled to provide that fraction 08:25:32

3 because of the -- you suggested the 50, and I did 08:25:35

4 not think it was appropriate to use a number like 08:25:37

5 50. I would say it's much more than 50. You could 08:25:40

6 have suggested a number that I regarded me much 08:25:43

7 more. And you can ask me what I mean by much more. 08:25:45

8 The point is language is vague. 08:25:49

9 Q. Do you have an expert opinion that at least 08:25:51

10 95 percent of the class members suffered a reduction 08:25:53

11 in compensation? 08:25:57

12 A. Well, I would say most members of each 08:25:59

13 class suffered a reduction in compensation. 08:26:01

14 Q. What do you mean by "most," when you say -- 08:26:04

15 when you restate your opinion? 08:26:05

16 A. Well, I would prefer not to say a specific 08:26:08

17 number, like 95 percent, because that suggests a 08:26:10

18 precision that this -- that the evidence does not 08:26:14

19 support. You're not going to be -- I can't point to 08:26:16

20 the 5 percent that didn't -- weren't impacted and 08:26:20

21 the 95 who were. 08:26:23

22 So I'm saying that this is a setting in 08:26:25

23 which the forces would spread the harm across 08:26:28

24 everybody in a firm, my presumption is that -- in 08:26:32

25 fact, everybody has been impacted by the conspiracy. 08:26:35

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1 STATE OF CALIFORNIA) ss:
2 COUNTY OF MARIN)
3

4 I, ASHLEY SOEVYN, CSR No. 12019, do hereby
5 certify:

6 That the foregoing deposition testimony was
7 taken before me at the time and place therein set
8 forth and at which time the witness was administered
9 the oath;

10 That the testimony of the witness and all
11 objections made by counsel at the time of the
12 examination were recorded stenographically by me,
13 and were thereafter transcribed under my direction
14 and supervision, and that the foregoing pages
15 contain a full, true and accurate record of all
16 proceedings and testimony to the best of my skill
17 and ability.

18 I further certify that I am neither counsel for
19 any party to said action, nor am I related to any
20 party to said action, nor am I in any way interested
21 in the outcome thereof.

22 IN THE WITNESS WHEREOF, I have transcribed my
23 name this 29th day of October, 2012.
24

25 _____
ASHLEY SOEVYN, CSR No. 12019